Justice of the Peace
and
LOCAL
GOVERNMENT REVIEW
ESTABLISHED 1837
[Registered at the General Post Office as a Newspaper]
LONDON:
SATURDAY, MAY 30, 1959
Vol. CXXIII No. 22 PAGES 340–355
Offices: LITTLE LONDON, CHICHESTER, SUSSEX
Chichester 3637 (Private Branch Exchange)
Showroom and Advertising:
11 & 12 Bell Yard, Temple Bar, W.C.2.
Holborn 6900.
Price 2*s*. 9*d*. (including Reports), 1*s*. 9*d*. (without Reports).

CONTENTS

REPORTS

NOTES OF THE WEEK

Not a Paying Proposition

Offering a policeman a bribe may be material for a comedian, but in real life it is anything but a joke. It is pretty certain to be refused, and not unlikely to lead to serious trouble. Policemen are above that sort of thing, and if they do no more than warn the would-be corrupter that he is in danger of being prosecuted for offering a bribe he is fortunate. The punishment for such offences can be heavy. It is foolish, as well as dishonourable, to make such propositions.

The *Newcastle Journal* reports a case in which a man was convicted of attempting to bribe a constable who had told him he would be reported for causing obstruction by selling goods on the pavement. The constable told the magistrates that when he had gone on to point duty the defendant came and put a 10*s*. note into his hand. The defendant's story was that he had no intention of offering a bribe, and that the money had reference to a previous promise about a drink. The magistrates did not accept this, and fined the defendant £50.

Quite apart from the morality of such a transaction, the folly of it is obvious. For an obstruction of the footway by selling goods from a trestle the fine would be comparatively small, yet the man was, apparently, prepared to risk a large fine, or even imprisonment, in the hope of escaping prosecution for an offence involving no element of dishonesty or corruption. However, it often does appear that people risk a great deal for a trifling gain, if it comes off, as in the case of many a shoplifter who, for the sake of obtaining something of little value for nothing, is prepared to run the risk of public disgrace and fine or imprisonment. It is an exceedingly foolish form of gambling.

Preparing for Discharge

It has been said truly that release from prison may be an even greater shock to a man than being sent there. After long confinement under conditions far removed from normal life, the ex-prisoner is bewildered and even frightened by the return to freedom and responsibility. That is the justification for the experiment being carried on in a number of prisons of allowing long-sentence men who are within months of their release to live in hostels within the prison precincts, going out to work daily and returning to the hostel at night, so that the life is nearer to that of a free man living in a hostel than to that of a prisoner in custody. Thus a bridge is established between the life of a prisoner and that of a free man with a job to go to and a home of his own.

An interesting conversation between such a man and a representative of the B.B.C. was recently broadcast. The man, who was within sight of release after serving a long term of imprisonment, was living in a prison hostel and going to work at a job which it appeared he had held for some little time. It was obvious that he appreciated the opportunity afforded him, and was settling down in the outside world which rather baffled him at first, partly because of the changes that had occurred since he left it. He had a trade which he had continued in prison, and was well able to do a similar job now. On the question of his employer's knowledge of his past, he said that of course the employer was taken into confidence, but that his work-mates knew nothing of it. Asked the important question: what would be their attitude if they found out, he replied that probably if they had known when he started to work they would probably have walked out, but that by now they were all friends together, and he did not believe it would make any difference if they found out. We sincerely hope he is right. It is quite possible that if any of them were listening-in they might recognize his voice, but if they have found him a good fellow they will not be harsh in their judgment of him now.

Litter in a Big Way

One thinks usually of litter in terms of cartons, paper, bottles and tins, which are bad enough, but that is by no means the whole story. A farmer, who is supported by the National Farmers Union, has complained that farmers all over the country are suffering from the dumping on their land of all sorts of discarded articles such as bicycle wheels, wire mattresses, fenders, car wheels, car seats, bicycle frames, dustbin lids and

pram wheels. The farmer in question said that one of his heifers died from eating yew that was among garden refuse dumped in a field, and livestock were continually liable to injury from broken glass.

We have also read of complaints that ditches have been partially stopped up by the deposit of such articles, thus interfering with drainage. All this is in addition to the defacement of a countryside by the deposit of this and other litter.

Where it is possible to detect the offenders, some of whom it is said drive out in their cars with rubbish in the boot to be thus dumped, and to prosecute them under the Litter Act, 1958, that is the obvious course to take. As we have said, successful prosecutions duly publicised are likely to prove an effective deterrent, but there remains the question of the removal from the land of such articles as we have mentioned. It is stated that the National Farmers Union intend to approach associations of local authorities to try to persuade them to accept responsibility for removing this kind of rubbish.

Excise Prosecutions

In connexion with what was said at p. 247, *ante*, about certain excise prosecutions by police officers, we are indebted to a correspondent who calls attention to s. 5 (5) of the Finance Act, 1956. In effect this subsection brings about a result agreeing with that assumed by the court which decided *Jones* v. *Wilson* (1918) 82 J.P. 277, an assumption on which we relied in answering a practical point at p. 31, *ante*. The subsection is involved, and makes complicated amendments in the Vehicles (Excise) Act, 1949. It excludes s. 281 and s. 283 (1) of the Customs and Excise Act, 1952, which respectively relate to the person by whom and the time within which offences under the Act of 1949 may be prosecuted. As regards time, it extends the limitation from a year to three years. As regards the person, it says that proceedings shall not be taken except by a local authority or a "constable" with the consent of a local authority. The fact that the revenue authorities thought it necessary to obtain this enactment strengthens the contention that, without it, the council of a county or county borough could not have given the requisite authority to a police officer. It also strengthens our view that it would be a good thing if the responsible departments of Government examined the whole question of authority to prosecute, and introduced legislation co-ordinating the various provisions. Meanwhile, it must be noticed that the local authority's consent is still necessary, this being the point we have been anxious to stress from time to time.

Noisy Youngsters

Troublesome youngsters of one kind and another are always with us. Leaving aside those who are properly styled juvenile delinquents, of greater or less degree of turpitude, there are the noisy and rowdy. Rock 'n' roll in its early days was supposed to have a specially adverse effect upon the young, who were prompted by indulgence in it to push their elders through shop windows and otherwise behave as hooligans in public places. Gross misbehaviour of this sort can be adequately dealt with as assault, but it is not so easy to know what to do where the young people are singing and shouting, and perhaps jostling other people in the streets, in a manner which could hardly be called assault. A correspondent tells us of incidents of this sort happening several nights a week, when young people leave a dance hall, in a manufacturing town. There is a model byelaw issued from the Home Office for use under s. 249 of the Local Government Act, 1933, which speaks of jostling people in the street, but we doubt whether it would be proper to extend this byelaw to "noisy and disorderly behaviour" generally. The expression seems too vague for inclusion in a provision enforceable by criminal sanctions. There is s. 5 of the Public Order Act, 1936, which might apply in some cases, and there is a byelaw which we believe to be not uncommon saying that no person shall in any street or public place between the hours of 11 *p.m.* and 6 *a.m.* wantonly and continuously sing or make any noise or shout to the disturbance of residents. This might be useful in some places if it has not already been put in force, but the noisy young people who fall between these various stools can, as it seems to us, hardly be dealt with by any appropriate provision of a penal nature.

Matrimonial Proceedings (Children) Act, 1958

Part 1 of this Act came into operation on January 1, 1959, and the Home Office has issued a circular No. 69/1959 to probation committees about the provisions of the Act as affecting probation officers. Clerks to justices and probation officers are receiving copies.

It will be recalled that the main purpose of the Act is to secure that proper provision is made for the welfare of the children of parties to matrimonial proceedings in the High Court. It is provided that where the court makes an order regarding the custody of a child of the parties it may order a child to be under the supervision of a welfare officer or of a local authority. The welfare officer will be "such probation officer as may be selected under arrangements made by the Secretary of State."

The Secretary of State proposes to make rules that the probation officer responsible for carrying out supervision under such an order shall be a probation officer appointed for, or assigned to, the petty sessional division in which the child for the time being resides, and selected in the same manner as the probation officer who is to be responsible for the supervision of a probationer. Probation committees are invited to make such arrangements at once, pending the making of the rules.

The welfare officer is one of the persons who, under the Matrimonial Causes Rules, may apply to a Judge for the variation or discharge of the supervision order or for directions as to the exercise of the powers of the welfare officer under the order. The circular suggests that where a probation officer is in a position to apply for leave to intervene in proceedings under r. 54 (1d) of the Matrimonial Causes Rules, 1957, it will generally be preferable for him to report to the appropriate Judge or registrar with a view to the official solicitor being requested by the court to make an application.

The circular also indicates the appropriate action to be taken by the probation officer when a child is removed from his area to another.

Agreed References

Our note at p. 263, *ante*, upon agreed references under s. 67 of the Public Health Act, 1936, prompts a correspondent to call attention to some problems which have arisen about the parallel provision in s. 5 of the Thermal Insulation (Industrial Buildings) Act, 1957. The application of that section seems straightforward, where plans of a new building are deposited in accordance with byelaws made under the Public Health Act, 1936, but our correspondent has been concerned with industrial buildings which were exempt from the provisions of the byelaws, and did not require the submission of plans. In such cases the section in the Act of 1957 does not apply.

There may sometimes be a question whether plans for the building ought to have been deposited. As when a similar question arises under the Public Health Act, 1936, this can only be determined by

proceedings in court, unless the parties have agreed voluntarily to submit it to the Minister under heading (*a*) in s. 67 of the Act of 1936. If the property owner and his architects are satisfied that the building proposed is one which does not require the submission of plans under the local authority's byelaws, and that it will when erected comply with the Act, they are entitled so far as the Thermal Insulation (Industrial Buildings) Act, 1957, is concerned to go ahead. If a dispute then arises about compliance with the substantive provisions of that Act, the dispute can be determined only by the courts, unless the owner then refers it to the Minister of Power under s. 5, which he can do (as he can not under s. 67 of the Act of 1936) without the local authority's concurrence. If the property owner and the local authority chose to agree voluntarily to have the question whether plans ought to be deposited decided without recourse to litigation, the reference would have to be to the Minister of Housing and Local Government, not to the Minister of Power.

The same correspondent reminds us that the Minister of Housing and Local Government is willing to entertain similar questions about byelaws with respect to the level, width, and construction of new streets, although these fall outside s. 67 of the Public Health Act, 1936. In doing this he is following the practice which had been established by his predecessors before the passing of that Act. In our former Note we referred to precedents to be found in the books dealing specifically with byelaws, where voluntary jurisdiction such is now embodied in s. 67 of the Act of 1936 had been accepted under the previous law, although there was no statutory basis for it. Some of the most carefully considered precedents to be found in the textbooks did in fact refer to byelaws with respect to the level, width, and construction of new streets, and not to what are now defined as building byelaws.

This procedure of an agreed reference is so beneficial from the point of view of the property owner, whether he is at the time concerned with streets or with buildings to which building byelaws apply, or with buildings to which the Thermal Insulation (Industrial Buildings) Act applies or may apply, that it is to be wished that the procedure, even where not established by statute, could be more widely adopted. From the point of view of the local authority also our own view is that, on the whole, it is better to follow this procedure by agreed reference, except where there is strong reason for taking the matter into court: for example, where there is some important point of interpretation to be decided, upon which the local authority wish to get a decision which will be binding in all cases, as a decision by the Minister would not be. We are thinking of the ordinary case where there is *bona fide* difference of opinion between the local authority's professional advisers and those of the building owner, whether that difference relates to thermal insulation, or to ordinary matters of building construction, or to streets. The local authority as well as the building owner stands to gain, by a procedure which need not take longer than recourse to the courts, and will cost less, as well as providing both sides with a decision drawn up by the Minister's advisers who understand such matters, instead of having to fight out the meaning of a technical provision with the aid of expert witnesses by the forensic process.

The same correspondent suggests that one reason why the procedure has been less widely adopted than it might be is that the publishers of local government forms have not called attention to s. 67 in their footnotes to the form for rejection of plans. This is natural, since the section does not provide for an "appeal" within the meaning of s. 300 (3) of the Act of 1936, but a local authority using these forms, or preparing its own, might be wise to consider mentioning s. 67 in the footnote, or even in a memorandum enclosed with the notice of rejection of a building plan.

Politics in Local Government

Much public controversy has been caused at Nottingham by a visit of three members of the city council to East Germany to consider the purchase of a planetarium leading up to a Scotland Yard inquiry. On this we have no desire to comment. But we are concerned by a report in *The Times* from their correspondent that the local Labour party had dismissed from the chairmanship of the city watch committee an alderman who is said to have been concerned in the Scotland Yard inquiry.

The power of the party machine in local government is well known but we had not conceived that any political party would openly take on itself the right of a local authority committee to appoint its own chairman and to decide, subject to the over-riding power of the council, on his term of office. Nor usurp the prerogative of the council in deciding the membership of their committees. We know, of course, that it is not unknown for matters like this to be discussed in party meetings, but confined to members of the council, and for the majority party to decide who shall be chairman of a particular committee or who will be mayor. Even then, however, the decision must be taken by the council, or in the case of a committee chairmanship by the committee. We know of one case where it was decided at a party meeting—and these happened to be Conservatives—that the time had arrived when the chairman of an important committee should retire even although he was a member of the same party. Fortunately, however, for the good sense of local government the committee thought otherwise, did not vote on party lines, and reappointed their chairman

Not Too Far

We have spoken from time to time in different contexts about modern architecture. Without claiming special competence, we have hinted our dislike for match boxes standing on their ends, and for imitations of Le Corbusier by designers who do not possess his genius. Although we are not an architectural journal, we are naturally interested because the disappearance of the private patron leaves payment of the architectural piper (with the right to call the tune) to local authorities and other corporate bodies. Apart from the national Government, these bodies are either commercial or municipal. Both classes must have regard first and foremost to functional requirements but, as we said lately about a new library in Kensington, this is in no way inconsistent with regard for the external appearance of a building. We have been interested to notice in *The Times* of April 23 a savage onslaught by their architectural correspondent upon the quality of the most conspicuous commercial buildings now being erected by important companies. This article may be compared with a general remark by Dame Evelyn Sharp which we noticed at 121 J.P.N. 241, about the uninspired quality of many large buildings commissioned by commercial undertakings, but *The Times* correspondent was able to do what could hardly be done by the Secretary of the Ministry of Housing and Local Government, and go into detail with the names of the buildings and the architects responsible. According to him, some boards of directors have rejected modern styles which had even been selected in open competition, and gone back to 19th century conventions. It may be conceded that the popular Georgian style, which reached its perfection in large domestic buildings in the 18th century, does not lend itself to the purposes of an outsized office block; yet many will echo the thanksgiving for Wren, wrung from George Ponderevo as his launch swung through the Victorian Gothic of

the Thames side in his day. There will also be many who will feel thankful for what the architectural correspondent of *The Times* says was Lord Nuffield's personal insistence upon "Oxford Cotswold," in conformity with the older colleges. *The Times* correspondent is hoping for something more up to date from Churchill College, Cambridge, perhaps as the result of the engagement of a continental architect to which we referred some weeks ago. The possibilities of glass, aluminium, and plastics are infinite, and remain to be exploited fully, but as we go to press the Paris correspondent of the B.B.C. broadcasts an account of "hellish" conditions (in May sunshine) in the ultra-modern office of UNESCO. A case can be made out for wishing that one or two of the great commercial firms, trading in steel or aeroplanes or nuclear components, had "gone all modern" in their London or Birmingham headquarters so that the world could see what it looked like. Oxford, however, can show examples of modernistic efforts in the 19th century which not so many people like to look at at the present day, and we doubt whether those responsible for Churchill College will do well if they flout too greatly the conventions of Cambridge academic building. Similarly, we should like to see local authorities, who have money to spend on town halls, libraries, or other buildings, opening their minds to modern influences, but remembering also the ancient virtue of the golden mean.

Members' Travelling and Subsistence Allowances

At 122 J.P.N. 550/1 we commented on the acute dissatisfaction with the present scales of expenses allowed to local authority members for travelling and subsistence. Not only are there inexplicable and petty differences between the local authority scales and those prescribed for other public representatives, but there are differences also between the officer and the member. These latter occur because whereas members' allowances are prescribed in exact detail by regulation officers' allowances are fixed after negotiation by national joint councils of various kinds.

In our article we ventured the opinion that as against the general background and magnitude of local authority work and expenditure the whole amount paid under the head of travelling and subsistence expenses was trifling the present system of detailed prescription by regulation was superfluous and should be abolished. There were supporting points which seemed to us to strengthen the case for abolition. The first is that there is no similar control over officers: the scales are in any case negotiated but if local authorities do not wish to be limited to the maxima of these scale figures they are not bound to observe them. The second reason is that the supposed control given by regulations is an illusion and will always continue to be so until government departments are able to prescribe the number of committees established, the number of members on each, and the frequency of their meetings.

The local authority associations have been reviewing the scales and this year both the Association of Municipal Corporations and the County Councils Association have made representations to the Minister of Housing and Local Government for alterations. In both cases it is agreed that the present regulations should be scrapped but whereas the A.M.C. favour complete freedom for individual corporations to fix their own scales the counties suggest that the associations should devise scales which should be accepted by individual authorities as maxima.

It is recognized that as amending legislation is necessary there must be considerable delay in securing implementation of this recommendation. As an interim measure, therefore, revision of the existing scales is recommended. Both propose that the rate for absence overnight should be increased to 65*s.* but the C.C.A. recommend an addition of 10*s.* to this figure for meetings in London or at annual conferences and the like. For absences not involving a night away from home the A.M.C. suggestions are at each point 2*s.* 6*d.* higher than those of the C.C.A.: for an absence of more than four but not more than eight hours 12*s.* 6*d.* is proposed and the figure for more than eight but not more than 12 hours is 20*s.* 6*d.* Both associations introduce a new suggestion of 35*s.* for absences of more than 16 hours.

The C.C.A. state that under the present law a member is entitled to draw the full subsistence allowance whether this amount has in fact been spent or not. Forms used by some authorities have not recognized this fact and have led to misunderstandings. It is suggested that this should be put right and that the full allowance (which is an average of expenditure and may be exceeded on some occasions and not reached on others) should be paid in all cases.

Production of Sand and Gravel

A memorandum published by the Ministry of Works gives statistics as to sand and gravel production in various areas of Britain. These are made known as a guide to local authorities and others concerned with problems of land use. They show production in each of the gravel regions and service areas defined by the Advisory Committee on Sand and Gravel which reported in 1948.

Health Progress in Canada

A recent issue of "*Canada's Health and Welfare*" contains an article on "the state of health in Canada today." It is shown that from the scientific point of view diseases are being stamped out right and left. But from the viewpoint of the public health worker there are more and more illnesses to deal with. We suppose the same can be said about the position in this country. In Canada, as here, medicine has laid bare the causes of many diseases and their cures, but at the same time other problems have been found which must in their turn be solved. In Canada, where vaccination is practically universal, there has not been a single case of smallpox since 1946. But Pakistan, where preventive measures are less common, 16,000 perished in a recent epidemic. The life expectancy of Canadians has increased 20 years over the past four decades. But, as in other parts of the world, this is bringing increasing problems in dealing with the diseases of old age, since there are more people living long enough to contract these illnesses. Accordingly, there are more deaths from heart disease, cancer and other degenerative diseases than before. In Canada alcoholism and mental illness are also increasing. In 1900, for example, there were five cases of alcoholism recorded in Toronto, one in Hamilton, and four in Ottawa. Today, one out of every 50 Canadians is classified as an alcoholic, and the rate has doubled over the past 10 years. In 1956 there were over 70,000 Canadians under care in mental hospitals, and the rate was 408·9 per 100,000 population. But it is accepted that early figures for both diseases may be misleading, for the stigma attached to both alcoholism and mental illness at the turn of the century means that many cases were not only not reported, but not recognized as being diseases at all.

The writer of the article, who is general director of the Health League of Canada, says the picture of health in Canada today is infinitely brighter than it was some 60 years ago. But there lies now the danger of the overprotected to bear in mind. With such diseases as smallpox and diphtheria under control, it is only too easy to believe that they do not exist at all. There are doctors practising in the country today who have never seen a case of diphtheria.

CRIME AND CAUSATION

By W. CLIFFORD, B.Sc. (Econ.), LL.B.

Lawyers are usually content to define crime as a breach of the law and to assume, however much they may qualify the principle in practice, that a "reasonable" man knows the law and is free to observe or break it. Refinement is introduced by the concept of *mens rea*, the gravity of the offence (usually indicated by the severity of the punishment) and the notice that courts must take of the general climate of public opinion and the need to preserve public order in dealing with crime. We have recently had an example of this response to social needs in the sentences which were inflicted on Notting Hill offenders following the racial riots. There is also a legal distinction between serious crime and minor offences, but for the purposes of the law all contraventions are crimes and a criminal is one who commits an act or is guilty of an omission punishable by law. In this strict context the causes of criminal behaviour have no relevance except perhaps that the enactment or precise declaration of law can itself be a cause of crime in the sense that it labels certain conduct as criminal and may extend the idea of crime by expanding the scope of legal rules.

This, of course, is a more extensive view than that taken by public opinion which would hesitate to lump burglars and brawlers together and would hardly consider income tax avoidance, or the failure to take out wireless licences as sufficient evidence of criminal behaviour in the popular sense. There is general interest in the causes of crime, *i.e.*, the factors leading to or producing murder, stealing, sexual offences and other serious offences but hardly any concern with the causation of petty smuggling, occasional disorderliness, unlicensed street trading, minor traffic offences and the like. These latter are so common in everyday life that it is often a matter of chance whether the offender appears at court or not and the man in the street can more easily say "There, but for good fortune in not being found out, go I."

This widespread attitude implies established norms of social conduct quite apart from the criminal law. A crime is a breach not only of the law but of the norms of behaviour which society imposes quite apart from the law. Sociologists have therefore concentrated on crime as anti-social behaviour and (in America especially) have been considering not only convicts but also "white collar" offenders like racketeers, large scale gamblers, trade monopolists and stock exchange manipulators who retain respectability and immunity from prosecution whilst perpetrating anti-social offences that can be far more disastrous for society than the crimes for which men are imprisoned. The sociologist's interest is in the cultural forces or environmental conditions that lead to anti-social attitudes and conduct.

Different again is the approach of the psychiatrists who are interested in abnormal behaviour. Indeed it is from a study of abnormality in its most conspicuous forms that psychologists and psychiatrists have been able to define the normal or "adjusted." Causation for the psychiatrists is the problem of the motivation or the individual response to internal and external stresses and strains. Their study of abnormality takes them far beyond legal or even social definitions.

But whatever the approach, there is a group common to the lawyer, the sociologist and the mental specialist and the layman—a collection of abnormal people who behave anti-socially and are therefore convicted of the more serious crimes. It is this group that would be labelled criminal by the law, by society and by medicine, that has received most attention, not only because there is a need to understand them for their own sakes but because there is an equally if not more pressing need to control them in the interests of the community they endanger.

In the study of this group of criminals in the deeper sense, it has been customary to seek the cause of crime. We have tried to explain why they behaved in this way by following Lombroso or Goring and later Monachesi and Cantor in their descriptions of physical types, by adopting Clifford Shaw's approach to "Delinquency Areas," by studying the Freudian concepts of unconscious motivation, by tracing the relationships between crime and neurosis, crime and mental defect, crime and health, crime and poverty, crime and recreational facilities, crime and the press, crime and the cinema (or T.V. or radio), crime and alcoholism, crime and intelligence, crime and unemployment, crime and broken homes, crime and the gang, crime and genetics, crime and culture. In the quest for causes we have classified criminals according to age groupings, physical or mental capacity, type of offence, social history, emotional response. There has been a plethora of investigation and innumerable factors have been isolated. We have reached finally the team of expert investigators comparing a group of delinquents with a control group and from this it now seems possible to predict by the use of indicators the probability of a person becoming criminal in his behaviour.

From all this work we have a wealth of information about crime and criminals but how much nearer are we to postulating causes of crime? Clearly crime is not caused as inevitably as rain is caused by given conditions or with the certainty that some metals expand when heated. We cannot use the concept of cause in the same way as the physical scientist would use it for even if we are not convinced of the freedom of the will, the elements in a social situation from which crime emerges are too involved and too much concerned with the imponderables of nature and nurture for us to expect a fixed relationship. There are always people from the same conditions who have not become criminal.

This recognition that none of the elements in criminality can be said to produce crime inevitably, has led to the use of the term "factors" rather than "causes" and we have recently been reminded "that the total of possible factors which may be specially connected with delinquency is limited only by the patience of the investigator and by the number of methods extant and professionally favoured at the time of the investigation. It is now generally accepted that all these comparisons can establish is the fact of correlation, the fact that delinquency is frequently accompanied by defective home discipline and by temperamental instability and by intellectual disabilities such as backwardness and dullness and so on."*

The elusiveness of the causes has led some investigators to abandon the search altogether and to concentrate on the

* ("Juvenile Delinquency Research," J. A. Mack, Soc. Review, July, 1955.)

control of delinquency. For instance Mr. L. T. Wilkins who worked with Dr. H. Mannheim on a borstal prediction study has argued ". . . . that prediction methods have been proved to work and . . . that the causal concept is both unnecessary and invalid."†

It is true of course that we can work on what is known about groups of delinquents and perhaps forecast aggregate behaviour without reference to causes. Several countries have borrowed our probation system having a high degree of probability that at least 50 *per cent.* of those dealt with by this form of supervision would not appear at court again during the period of probation. The reasons why probation is so effective have not yet been demonstrated but effective it is and to that extent is useful whether we know why it works or not. In the same issue of the *British Journal of Delinquency*, Dr. T. N. C. Gibbons reminded us that "In medicine of course, studies of prognosis have proved a royal road to much of the understanding we have."

But if caution inclined us to the discussion of factors rather than causes, the idea of predisposing elements persists and has led to the use of such terms as "causal factors." It is difficult to get rid of the idea of causation in human conduct and it is not really necessary that it should be jettisoned. Even if prediction is possible without the notion of cause we would surely still want to ask why people behave in a way which is predictable. If we achieve only partial answers they will surely help to make prediction and control more precise. That is for the group: for the individual it is all the more important to find out why he acts as he does. We can for example plot and no doubt predict with some accuracy the course of road accidents over the next year but, valuable as this may be in setting up various preventives and controls, it does not diminish the importance of exploring the causes of particular accidents. Just as there is a case for the medical specialist highly trained in the incidence and progress of a particular disease in the human body, there is an equal case for a specialist in knowledge of an individual human body and how it reacts to disease. The old general practitioner was often successful because he had the specialist knowledge of his patients if not the specialist training in the diseases they might get.

Our investigations in recent years have all strengthened Dr. Cyril Burts' view that "Crime is assignable to no single universal source, nor yet to two or three: it springs from a wide variety and usually from a multiplicity of alternative and converging influences."‡ Multiple causation is now widely accepted even if we should more accurately term it a multiplicity of factors. It depends on the person, the situation, the predisposing factors and immediate temptations. But neither this prolification of factors in a given crime or in crime generally, nor the fact that we have not yet been able to produce proof or more than correlations or associations should inhibit the search for causes. The link between factors and causes was suggested by Dr. Bernard Glueck when he wrote "A factor is not a cause unless and until it becomes a motive." Some of our factors may yet emerge as causes.

Human nature being what it is the day may never come when we will be able to discuss causes of crime in the same way that the physical scientist would understand causes. But although we may as yet only be able to identify situations and factors or groups of factors that constitute a situation from which crime arises there must be reasons for human conduct whether we or the criminal appreciate that they exist. The search for these causes might be unrewarding in the present state of our knowledge but to consider it futile would be to deny our own rationality.

† (Brit. J. Delinquency, Vol. VI, No. 2, September, 1955.)

‡ ("The Young Delinquent," University of London Press, 1938, pp. 599–600.)

DON'T CALL THE PROBATION OFFICER

[CONTRIBUTED]

It is quarter sessions. The man charged has pleaded guilty. He is represented. Counsel is on his feet and says to the learned chairman "I would like to call the probation officer, sir." He is allowed to do so. The probation officer goes into the witness box and gives his report—if he is able. Often in such circumstances he will be impeded by the counsel for the defence asking him questions that are partial, perhaps leading questions.

The probation officer will probably go into the box feeling a little annoyed and leave it in the same state, not without justification.

It should be clearly stated—and, one hopes—be recognized by counsel that probation officers are not witnesses for the defence, nor for the prosecution. The status of a probation officer as far as his duties in court are concerned is made quite clear in the probation rules. It is the duty of a probation officer "to inquire, in accordance with the directions of the court into the circumstances or home surroundings of any person with a view to assisting the court in determining the most suitable method of dealing with the case." The probation officer is not usually a witness to fact, but an officer making a report. He brings to the court *as one of its officials* an objective and impartial report of what he has found about the circumstances of a person charged, together with his assessment of those facts and—if required *by the court*—his opinion about them.

The probation officer is "appointed or assigned" to a petty sessional division by a probation committee. His salary is met from public moneys—local and national. He may be described as a local government officer of a special kind, one with a particular responsibility to the courts to which he has been assigned.

It can therefore be said fairly that only in certain circumstances can a probation officer be called as a witness for the defence or the prosecution. These may arise, for example, in defence, when a probationer with an excellent record has erred again and has been brought back for committing a further offence. In such a case the bench would want to hear the probation officer anyway, so the defendant's representative might be well advised not to call the probation officer as a witness.

In a case where a man left prison and within days committed a burglary, the prosecution called a probation officer, as the man, in mitigation of his offence, made an attack on those concerned with his after-care while on licence.

It is rare that the prosecution call the probation officer and when this is done it is usually because of a query on some fact relevant to the case. This contrasts with the defence, who will (naturally) see if the probation officer's report is favourable, and then call him—not about some fact relevant to the case, but to support mitigation, the defence view of the client's character, and future behaviour. It is not a sound practice. Probation officers generally are anxious to help people who appear before the courts; they try to be soberly optimistic. But they are court officials, they should be able to give their objective estimates based on the facts they have found in their thoughtful inquiries.

It is likely that the defence do their client little good by this practice of calling the probation officer. It is resented by many officers. It anticipates the chairman's right to ask for the probation officer's report—and he alone should do this. The most the defence or the prosecution should do is to indicate that the report is available. If this becomes the practice in all courts—as it is in some now—they will be better served. T.C.

GRADUATED WRONGS

At 119 J.P.N. 719 we told at length the story of a northern district, where the local authority, after long exercise of patience, had found itself obliged to act drastically towards tenants who habitually misused the roads on a housing estate. At 120 J.P.N. 769 we noticed complaints of trespass by motorists upon bits of ornamental land on such an estate. We now learn of a town where these two sources of complaint are coupled with even worse behaviour—namely the parking of vehicles on a portion (presumably unfenced) of a public pleasure ground. These offences can be regarded as a gradation; parking illegally on the highway is by comparison venial (if only by comparison); doing so on private land, belonging to a local authority or a private person, adds impudence to injury, while doing it on a public pleasure ground is even worse. Yet there are elements in common. Since queries are still reaching us, we think it will be worth while, even at the cost of repeating things that we have said before, to set out here some general considerations, applying them where appropriate, to the different facts.

To take first the two pieces of land which are not part of the highway. A landowner is not bound to submit to having an object put on his land without permission, and is entitled to remove it. At 122 J.P.N. 380 we dealt with a suggestion which had been put to us in the previous year, that a trespassing vehicle could be put off the land on to the highway; this might produce complications, but we see no objection to removing it to the council's depot. In the latest case put to us, the council had decided to do this, but their advisers were not sure at all points of their legal standing. One doubt was whether the council were under obligation to ascertain and inform the owner of the vehicle. This would generally involve communicating with the authority with whom the vehicle was registered, since ordinarily the council's officials cannot know who is the owner, and we do not regard this as essential. In answering similar questions, we have suggested that trouble might be avoided if land of this sort were fenced, in such a way that vehicles could not be driven on to it without at least removing a fence, which in the ordinary way the driver might hesitate to do: *see* 122 J.P.N. 381. For this purpose a light chain fence might suffice, although we realize that in some areas there would be danger that anything that was not solidly constructed would be stolen, and there might be practical reasons in a particular place for not putting up a solid fence. Another suggestion we have previously made is that conspicuous notice boards should be put on such land, informing drivers that vehicles left there without permission would be removed to the council's depot. There might be criticism of such a notice as unsightly in some situations, but from the council's point of view it would have advantages, and it would tell the trespasser where to get his vehicle back, without the council's going to the trouble (and slight expense) of finding out who he was and then writing him a letter. Our latest correspondent tells us of instances in his borough where the driver has put the brakes on, so that the vehicle cannot be moved, and has then locked it. On the face of things this creates a complication. It was stated last year at a public local inquiry in London that the metropolitan police are supplied with keys, kept by a responsible person at each police station, with which they can unlock any car in the street for the purpose of exercising their new statutory power of removing it. We suppose that it would not be practicable for the council's officers to be supplied with similar master keys; they would therefore be reduced to the necessity of breaking the door of a locked car in order to get at the brake if the car could not otherwise be moved. No doubt the car owner would strongly object, but in our opinion the council would be within their rights in doing it, upon the principle that the victim of trespass is entitled to abate it so long as he does no unnecessary damage in the process; the damage here would have been rendered necessary by the trespasser himself. This then is the course we recommend. The council would obviously avoid taking an extreme measure such as breaking the door of a car until they had secured all possible publicity for their proposal, by giving notice in the local press and putting up notices on the land in question. But as a matter of principle we do not think there is objection to their taking the course suggested, or that they run any legal risk in doing so. We may mention that it is their intention to have the offending car towed, and not to move it under its own power, thus avoiding any suggestion of an offence under s. 28 of the Road Traffic Act, 1930.

Where the car is left upon a road in a housing estate, which we assume to be a public highway, the position of the council as owners of the soil is not substantially different, but it has to be borne in mind that the leaving of a vehicle on a highway for a certain length of time is not, in itself, an illegal obstruction for which proceedings could be taken. We have discussed this at length on many occasions, particularly in connexion with the decision in *Solomon* v. *Durbridge* (1956) 120 J.P. 231.

Essentially the legal position is that a vehicle may not be left on the highway for longer than is reasonably necessary for some proper purpose. It becomes an illegal obstruction when left beyond a reasonable time. What is reasonable will vary with the circumstances, and it might not be unreasonable to leave a car in a residential street for a period which would be unreasonable in a busy street. There is however no more right to leave a car all day or all night in a residential road than on any other highway. The council have the right of prosecuting the person who leaves his car although (as we have said before) there is a danger that magistrates may be unsympathetic, unless it can be shown that other users of the highway have been obstructed in fact. If the council are minded, instead of prosecuting either under statute or under the Motor Vehicles (Construction and Use) Regulations, 1955, to tow the vehicle away from the highway as from their private land or pleasure ground, they are in

our opinion entitled to do so. Their servants will not be committing an offence under s. 29 (2) of the Road Traffic Act, 1930, because they will have lawful authority for what they do, and the council will be secure against civil liability at suit of the owner of the vehicle, in the same way as when it is left upon the pleasure ground, subject to their being able to show as a fact that it has overstayed a proper time.

MISCELLANEOUS INFORMATION

WELFARE OF CHILDREN IN HOSPITAL

The Ministry of Health has published a very useful report by a committee of the Central Health Services Council on the welfare of children in hospital. The report is of primary interest to those who have the responsibility for the care and treatment of such children, but there are some matters in the report which should receive the consideration of local health departments. Once again attention is drawn to the need for the co-operation and exchange of information between these several bodies. Dealing first with the central problem it is stressed that the emotional needs of a child in hospital require constant consideration. The disciplines of hospital life ought, in the opinion of the committee, to recognize the authority of parents and respect their methods of handling their children; and there should be mutual understanding between hospital staffs and parents. The committee urged that children should only be admitted to hospital when the medical treatment they require cannot be given in other ways without real disadvantage. Too few local authorities as yet provide special nursing services for home care of children and the extension of such schemes is recommended. For those who only need out-patient treatment it is suggested that there should be separate departments for children, with suitable facilities and staff. Waiting time should be kept to the minimum.

After dealing with hospital organization, design and staffing the report contains suggestions as to the preparation of a child for admission. It is suggested that informal contacts between a hospital and the community, such as through organizations known as " Friends of the hospital," do much to increase the confidence of parents and children in the hospital's ability to look after children. It is also suggested that the staff of local authority clinics can help to foster the understanding of parents and children so that hospital admission is less alarming. In discussing the child as in-patient support is given to the practice operating in a few hospitals whereby the mother can be admitted with a young child and allowed to remain for at least a few days. On visiting it is pointed out that the Ministry of Health has issued three circulars in the last 10 years encouraging daily visiting of children. This is now allowed in most hospitals though there are still some that do not encourage it. The committee thought it most desirable for the majority of children not only that they should be visited daily but that there should be as few restrictions on visiting as is consistent with the efficient running of the ward.

Education authorities will be interested in the part of the report which deals with the education of children in hospital. Since the passing of the Education Act, 1944, education authorities have had power to make arrangements for teachers to work in hospitals where there are groups of children of school age. Any child over the age of two may be put on the school roll and if there is a large enough group of these children, the education authorities can provide nursery teachers in addition to teachers for the older children. The committee were informed that in January, 1957, there were 114 hospital schools, with 5,844 pupils and that in January, 1958 there were 206 other hospitals in which arrangements had been made for teaching covering 1,689 children. But the total number of children so covered may not represent more than a quarter of the total number in hospital and it seemed to the committee that there may still be a substantial number of short-stay cases who would profit from education but are not receiving it. As is shown in the report, even with a short-stay case, a break in education may be positively harmful and whenever a child is admitted, hospital authorities should consider whether he is likely to stay long enough and be fit enough to receive education.

After considering the welfare aspect of medical treatment, and the position of special groups, such as the blind and the deaf, consideration is given to arrangements for discharge and after-care. It is thought that hospital staff may not be aware of the services provided by local authorities for ill children and the committee believed that these are not always invoked as they should be. It was considered important that a liaison should be preserved so that the advice given by the hospital on discharge does not conflict with that given by the health visitor. The local education authority is also responsible for the provision of special education for handicapped children, and for the education of children who cannot attend school for long periods. Hence it is essential that the medical officer of health (who is usually also the principal school medical officer) should be notified as soon as possible of the discharge of any children needing any of these services. Otherwise time may be lost which can prove vital, in for instance, the care of a child who has lost one of his special senses. In this chain of communication the part that can be played by the ward sister should not be overlooked.

INSURANCE AGAINST INDUSTRIAL DISEASES COMMITTEE CONSIDERING EROSION OF THE TEETH

Mr. John Boyd-Carpenter, Minister of Pensions and National Insurance, has asked the Industrial Injuries Advisory Council (chairman, Professor Sir Arnold Plant) to consider whether erosion of the teeth due to acid should be a " prescribed disease " under the National Insurance (Industrial Injuries) Acts and, if so, for what occupations. The effect of prescribing a disease is that if it is developed as a result of work in whatever occupations may be specified in the regulations, benefit under the Industrial Injuries Act may be paid for the resulting incapacity or disablement.

It has been suggested that the acid given off in some industrial processes, whether in the form of fumes or dust, may damage the teeth of persons working in the immediate vicinity. The council will be investigating whether, if this is found to occur, the resulting erosion of the teeth satisfies the conditions laid down in the Act for prescription.

Any person or organization having information or views on the question should submit them in writing to the Secretary, Industrial Injuries Advisory Council, 10 John Adam Street, London, W.C.2, by September 15, 1959. An explanatory memorandum will be sent on request to anyone wishing to give evidence.

ROAD CASUALTIES—MARCH, 1959

There were 14 fewer deaths on the roads of Great Britain in March this year than in March 1958. The number of pedestrians killed fell by 37 to 163, while fatalities among the occupants of motor vehicles, other than motor cycles, rose by 20 to 114. In addition 50 pedal cyclists and 88 riders of motor cycles, scooters and mopeds lost their lives, making a total for all groups of 415.

Casualties as a whole continued to rise with the volume of traffic. The seriously injured number 5,735, and the slightly injured 17,524. These figures, together with those for the killed, show an increase of 3,857, or nearly 20 *per cent.* on March, 1958. Traffic on main roads, as estimated by the Road Research Laboratory, was 18 *per cent.* heavier than a year ago.

The increase in casualties was most marked among riders of motor cycles and their passengers. Altogether 79 persons were killed and 4,717 injured while riding on motor cycles. In addition 1,189 riders of or passengers on motor scooters were injured, six of them fatally. The total shows an increase of 1,677, or 39 *per cent.*, on the same month last year. These figures do not include moped riders, who suffered 343 casualties, an increase of 134 or 64 *per cent.*

To some extent the casualty figures for motor cyclists reflect the increase in the number of motor cycles and scooters coming on the road. The number registered for the first time in March was 32,192, compared with 15,744 in the same month last year, and new registrations at just over 70,000 during the first quarter of the year are more than twice that of the same period in 1958.

During the first three months of the year, deaths numbered 1,168, a decrease of 99. The figure for the killed and injured was 62,660, an increase of 5,351.

BOOKS AND PAPERS RECEIVED

(The inclusion in this feature of any book or paper received does not preclude its possible subsequent review or notice elsewhere in this journal.)

Cross and Jones Introduction to Criminal Law. Butterworth & Co. (Publishers) Ltd. Price 35*s.*

Stone's Justices Manual, 1959. Butterworth & Co. (Publishers) Ltd. Price (Thick edn.) 92*s.* 6*d.*; (Thin edn.) 97*s.* 6*d.*

Stephen's Commentaries on the Laws of England. Twenty-first edn. supplement. Butterworth & Co. (Publishers) Ltd. Price 9*s.*

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

Your Notes of the Week at p. 179 carry a paragraph headed "Out at Night," which prompts me to quote a not too hypothetical case.

P.C. Plod on patrol along a main road at 12.10 *a.m.* passes a man and a woman walking along the footpath. He bids them "goodnight" and continues with his patrol. At 9 *a.m.* the same day a householder in the vicinity reports that his house has been broken into during the night and property stolen. As one of the officers on duty in the area, P.C. Plod is asked if he has any information which might assist in the investigation. All he can offer is that at 12.10 *a.m.* he passed a man and a woman walking along the footpath, and can possibly add a general description of the couple which might fit many thousands of others. Not a great help, as I'm sure you will agree.

There are two interesting "might have beens" in this case. First, the couple might have been the criminals responsible for the house-breaking. Men and women "teams" are not unknown in criminal circles. Alternatively the same couple could be perfectly innocent but might, conceivably, have seen something which would have assisted the inquiries. Without details of their names and addresses this aspect cannot be pursued.

It is probably not generally realized how much crime is detected by intelligent "stops" being made by patrolling police officers. If done tactfully and correctly no offence is offered to an innocent party. There are usually three ingredients which prompt an officer to make a check, "time," "place," and "conduct." If he is lucky he will have all three, but often he has only two. If his intuition is correct then he is complimented on a brilliant arrest. If he is wrong then he is labelled as a "rather over zealous young constable."

Yours faithfully,
JOHN C. MASKELL.

25 Denbigh Road,
Haslemere,
Surrey.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR.

I refer to your Note of the Week at p. 179, headed "Out at Night."

The question of ss. 64 and 66 of the Metropolitan Police Act, 1839, is not one on which I would like to comment, except to say that innocent people have nothing to fear from these sections, but that the criminal has everything to fear. In some 18 years' experience in the metropolitan police I can recall innumerable cases of criminals being caught in this way and much property being returned to the losers, which might otherwise have been lost to them forever.

With regard to the alleged incident in Berkshire, I think every member of the public ought to be sufficiently public spirited to regard the supplying of their names and addresses, under these circumstances, as a few moments of inconvenience which might stand other members of the community in good stead at a later date. Police do like to know who is about at night, not out of curiosity, but in case it can be of use to them in resolving crime.

Not long ago a very serious crime was committed in this county at about 1 *a.m.* Police had nothing on which to work and consequently stopped every car and person passing along a particular road between the hours of 12 midnight and 2 *a.m.* for the next few days, and asked them for their names and addresses and whether they frequented the road, explaining why. As a direct result of this, information was obtained which led to the conviction of three men.

Again it often happens that a crime is committed in a certain area, and the local police are aware of the names and addresses of people who use the neighbourhood at the material time, these names and addresses being obtained as in the Berkshire case. Inquiry from these people often elicits some useful information such as a car number or description of an individual, which subsequently leads to the arrest of the offender(s).

Every member of the public surely has a duty as a citizen to try to help and protect his fellow citizens, and I cannot see that there is any question of interfering with the liberty of the subject in merely requesting a name and address under these circumstances, the information thus obtained being used solely to help other people, and, in any case, the individual concerned is at perfect liberty to refuse the information.

Yours faithfully,
E. P. B. WHITE,
Chief Constable.

Chief Constable's Office,
County Hall,
Ipswich.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

MAGISTRATES' COURTS ACT, 1957

I was pleased to read the tribute which you paid to the National Association of Justices' Clerks' Assistants this week in connexion with the investigation by the *Magisterial Officer* into the working of the above Act.

Having recently left the busy court where the hon. editor of the *Magisterial Officer* was one of my colleagues, and where the Act was never used for careless driving cases, I was interested to find that in my new courts in Sussex, it is regularly used for about half of such cases. There are two observations I should like to make after comparing the two practices.

The majority of cases to which the new procedure is applied result in pleas of guilty, and I have noticed that statements made to the police at the time of the offence often indicated that a plea of guilty was unlikely. I am quite certain that many more defendants plead guilty than would otherwise be the case if they had to attend court, and much time and trouble is saved.

On the other hand, having seen courts make good use of the power to disqualify until a driving test is passed, in cases where it appears desirable from the defendant's age and physical condition, it does seem necessary for the police to have this in mind when selecting suitable cases to which to apply the new provisions, otherwise it is possible for persons to escape from serious consequences by signing a form.

Yours faithfully,
F. NUTTALL.

Town Hall Chambers,
Uckfield, Sussex.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

TREASURERS AND CHEQUES

I was most interested in your article at p. 169 of your issue of March 14, 1959, but would value your further opinion on the general statement in your fifth paragraph that "once the treasurer in office on July 23, 1958, retires the duty of supervision falls squarely on the shoulders of his successor, whether whole-time or not."

The proviso to s. 58 (1) of the Local Government Act, 1958, appears to apply the special arrangements to authorities with a part-time treasurer at July 23, 1958, for all times during which they have a part-time treasurer. This appears to be confirmed by the last two lines of para. 1 of circular 4/59.

Yours faithfully,
C. BORRIES,
County Treasurer.

County Hall,
Dorchester, Dorset.

[We thank Mr. Borries for his letter: on re-consideration we agree with his view.

It is to be hoped, however, that the numbers of part-time treasurers will steadily decrease. In this connexion we would refer again to the last paragraph of the article, wherein reference is made to the local government review which is now under way.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

CONSUMER PROTECTION

The reference in your leader on April 18, 1959, to the committee which the Parliamentary Secretary to the Board of Trade indicated

the Government intend to set up to consider consumer protection will probably not be related to the question of weights and measures legislation.

This committee, as I understand it, will be conducting inquiries into the more general aspects of consumer research, perhaps methods of advertisement and most probably into matters of quality. The *other inquiry* also promised by the Government is the conducting of a " social survey " to find out what the consumer wants in the sphere of weights and measures or rather, perhaps, in commodities which are traditionally purchased by weight or measure.

The intentions of the Government with regard to the latter might be somewhat doubtful, for many organizations have many times indicated needs in this respect. There are some items of food, etc., today over which there is general agreement as to the type of control necessary in this aspect of consumer protection.

The Government recently scrapped a set of proposed regulations which would have dealt with items of food, *e.g.*, fruit and vegetables, sugar confectionery, etc., following the recommendations in the main of the Hodgson Committee. Apparently, because of some opposition by the trade to some articles in these draft regulations, the whole lot was set aside.

There has been expressed some doubt as to whether the appointment of this social survey will reveal much not already known. It will certainly be unfortunate if the Government is persuaded to exempt from sales by weight or measure articles which are traditionally sold in that way.

Yours faithfully,
R. BILLINGS,
Chief Inspector.

Weights and Measures Office,
Greenbank Road,
Plymouth.

PERSONALIA

APPOINTMENTS

Mr. John Henry Mills Owens, whose appointment as clerk to Rhyl, Prestatyn and St. Asaph, Flintshire, justices, we announced in our issue of May 9, last, will take up his new duties following the retirement of the present clerk, Mr. Hugh C. Kelly, on August 16, next. Mr. Kelly has been clerk to the justices for the three courts since June, 1930. He has been connected with the courts for approximately 40 years for he was deputy clerk to the justices for 10 years before he was appointed to his present position.

Mr. A. H. Lewin has been appointed clerk to the justices, Dartford. He was admitted in 1950, and was with the London county council for two years. Subsequently he has been at Scotland Yard.

Miss Marion Harwood Sindell, at present assistant solicitor to Wakefield, Yorks, corporation, has been appointed deputy town clerk of Workington, Cumbs. Miss Sindell, who is 33 years of age, was articled to Mr. P. H. Race, Lincoln, passed her final examination in 1949 and was admitted in 1950. From 1950 until 1954, she was in private practice with Messrs. Bemrose and Ling of Derby, and then became assistant solicitor with Kettering council for two years, moving to Wakefield in 1956. Miss Sindell takes up her new duties on June 11, next.

Mr. I. G. Holt, chief assistant solicitor with Nottingham city council, has been appointed deputy town clerk of Wallasey, Cheshire. Mr. Holt will probably be taking up his duties in Wallasey in about a month's time. Mr. P. M. Vine, the present deputy town clerk, is taking up a similar appointment with Southend-on-Sea county borough council.

Mr. H. Aughten, treasurer and accountant, Wellingborough U.D.C., has been appointed (with effect from August) borough treasurer to the borough of Hemel Hempstead.

Detective Chief Superintendent W. J. Richards, of the Birmingham city police force, whose appointment as deputy chief constable of Manchester we announced at 123 J.P.N. 287, is at present seconded to the Police College at Ryton-on-Dunsmore as director of studies of the Department of Law. The previous deputy chief constable of Manchester, Mr. M. I. Valentine, retired in October, 1958, after almost 40 years' service in the force.

Superintendent and Deputy Chief Constable Walter Marshall of the Wallasey police force has been appointed chief constable of Wallasey as from October 1, 1959.

Mr. Robert Stafford Furlong has been appointed Chief Justice of Newfoundland, to fill the vacancy caused by the death of Sir Albert Walsh, last year.

Mr. J. G. H. Glover, Solicitor-General, Mauritius, has been promoted to be a Puisne Judge of the Colony.

Following a visit to North Island, New Zealand, Mr. E. W. Tinkler, a former chief constable of Worcester, has been appointed town clerk of Russell, a town in North Island.

RETIREMENTS AND RESIGNATIONS

Mr. John Ormerod, C.B.E., chief constable of Wallasey, Cheshire, retires on September 30, next. Mr. Ormerod joined the Wallasey police force on September 20, 1919, after service throughout World War I in the King's Liverpool Regiment. He served on foot patrol duties and through all departments on the force and was promoted to superintendent in October, 1929. He was appointed chief constable in January, 1931, at the age of 40 years. In 1941 he was created an Officer of the Order of the British Empire and in 1952 he was awarded the C.B.E. Among his many decorations are the Medaille d'honneur avec glaives en argent, and the King's Police Medal for distinguished service. In 1947, he was National President of the Chief Constable's Association, and has served for many years on numerous police committees to the Home Office. Mr. Ormerod will be succeeded by Superintendent Walter Marshall, *see* "Appointments " above.

OBITUARY

The death has occurred of Mr. Edward Heron Ryan Tenison, formerly chief magistrate of Colombo, Ceylon.

CORRECTION

At p. 320, *ante*, under " Appointments," the name of the clerk to the justices at Smethwick was incorrectly spelt—it should have been given as Mr. Joseph Ingham.

ADDITIONS TO COMMISSIONS

LINCOLN (HOLLAND) COUNTY

Reginald Walter Chappell, Glanford House, Hop Pole, Deeping St. Nicholas, Spalding.

Mrs. Iris Woodward, The Grammar School, Spalding, Lincs.

SOUTHAMPTON

Ronald Pestell Challacombe, High Trees, Bassett Heath Avenue, Southampton.

Robert Lewin, 48 Cheviot Road, Millbrook, Southampton.

Walter Barrie McDaid, 14 Preshaw Close, Aldermoor, Southampton.

Mrs. Dorothy Kathleen Roe, 12 Brookvale Road, Southampton.

Miss Dorothy Eileen Sanders, 90 Newlands Avenue, Southampton.

SURREY COUNTY

Alfred Joseph Brayshaw, Rokers, Grayswood, Haslemere.

Kenneth Herbert Cantrell, Riseden, Linkway, Camberley.

Herbert Ferguson, 1 Bute Gardens West, Wallington, Surrey.

Mrs. Priscilla Mary Sturge Grillo, Beech Hill, Hambledon, Godalming.

Oliver Arthur Hacking, Clare House, Virginia Water, Surrey.

Thomas Joseph Higgs, 76 Riverside Drive, Mitcham, Surrey.

Lady Sybil Mary Hone, 8 Stonehill Road, East Sheen, S.W.14.

Bernard Arthur Johnston, Lanterns, Brockham Lane, Betchworth, Surrey.

Stanley Bennett Kendall, 38 Park Drive, East Sheen, S.W.14.

Edward Mackenzie, 14 Summer Avenue, East Molesey, Surrey.

Mrs. Mary Morwenna Marnan, Hascombe Place, nr. Godalming, Surrey.

Capt. Terence Augustus Ker Maunsell, R.N. (Retd.), Palmers, Ashley Park Avenue, Walton-on-Thames.

Major William Ainslie Mackay Miller, Yonder Lye, Dunsfold, Godalming.

Mrs. Constance Anne Mitchell, Tower House, Bletchingley, Surrey.

Frank William Pullenger, 33 West Hill Avenue, Epsom.

Stanley Walter Charles Sprunt, 141 Sandy Lane South, Wallington, Surrey.

Mrs. Marjorie Elaine Grace Stevens, 16 Windermere Court, Barnes, S.W.13.

Horace Lionel Wharrad, The New House, Woodmansterne Lane, Banstead, Surrey.

Mrs. Laura Mary Woodcock, 6 Beaufort Way, Ewell, Surrey.

ANNUAL REPORTS, ETC.

PRESCOT MAGISTRATES' COURT

In his report for 1958, Mr. M. Hargreaves, clerk to the justices for the Prescot division of Lancashire, refers to a matter that is a frequent subject of comment and discussion. He says that in his courts, the increase in offences against the Road Traffic Acts is not matched by a correspondingly large increase in the amount of fines collected, and that, as in other parts of the country, magistrates are not making use of the increased penalties available to them since the Road Traffic Act, 1956. Mr. Hargreaves evidently thinks that there is a possibility that future legislation may include some provisions for minimum penalties. He attaches great importance to disqualification as a deterrent, and says that the power to disqualify is comparatively little used.

A weekly juvenile court, instead of a fortnightly, has been well justified. The court usually finishes by lunch time and, as the report says, it suits fathers who are anxious to get back to work, and mothers often with other children at home who may be unable to get home and back to court during a short luncheon adjournment. The statistics of the work of the juvenile court reveal what Mr. Hargreaves describes as an appalling increase in serious offences.

The increase in cases of dangerous or careless driving has given rise to some difficulty in the offices of many clerks to justices because of the large increase in applications for copy notes of evidence. These are often wanted by solicitors who may be asked to advise about bringing or defending a civil action. Mr. Hargreaves suggests that in fact many of the cases contested in the magistrates' court are contested simply in the interests of the insurance companies. As to the supply of copy notes, he says that without seriously disorganizing the work of an already busy office copy notes cannot always be supplied. This, he says, may sometimes appear harsh or to be an injustice to the individual concerned in a particular case, but it is becoming the general practice now for clerks to justices to refuse requests for copy notes unless notice of appeal has been given or civil proceedings actually commenced. The practice is bound to continue so long as the magistrates' courts are used to test the strength of the other side and the recollections of the witnesses in what is treated, in effect, as nothing more than a trial run for the later action in another court.

HEREFORDSHIRE FINANCES

The estimates presented by county treasurer W. A. R. Denison, F.C.A., show that the gross expenditure of the county in 1959–60 is expected to total £4,885,000, an increase of £406,000 over the original estimates for 1958–59. This increase chiefly arises on education account.

Mr. Denison has prepared a useful table showing grants received or receivable for the triennium to 31st March, 1960. The percentages to net expenditure are:

	Per cent.
1957–58	70·5
1958–59	72·8
1959–60	71·7

The results of the two previous years have been favourable. In 1957–58 there was a net underspending of £32,000 as compared with the revised estimate, and 1958–59 is expected to show a saving of £111,000.

Taking these factors into account an appropriation of £112,000 from balances has been made, estimated to leave in hand at the end of 1959–60 a balance of £242,000 equal to 4·9 *per cent.* of gross expenditure. The net sum to be met from rates is £1,056,000 and a precept for 15*s.* 2*d.* has been issued accordingly, the same as for the previous year.

Herefordshire adopt the useful practice of publishing the abstract of accounts with the estimates. Statistics of county services are given both on revenue and capital account: the volume also contains comparative statistics of the Herefordshire county districts.

A capital fund has been established. The superannuation fund is chiefly invested in local authority loans, in the proportion of about three-fifths with the county council and two-fifths with other authorities.

COUNTY BOROUGH OF DEWSBURY: CHIEF CONSTABLE'S REPORT FOR 1959

Actual strength 90 and authorized establishment 94 was the position on December 31, 1958, there having been a net loss of three during the year.

Indictable crimes numbered 693, 26 more than in 1957. Breaking offences were 18 fewer than in 1957. The percentage of detections was 56·7, and 149 persons were proceeded against, 39 of them were juveniles. For summary offences 28 other juveniles were taken before the juvenile court; another 205 juveniles were cautioned for various offences. The chief constable writes "The disturbing feature about juvenile crime is the number of occasions when parents have seen their children in possession of stolen property but have not bothered to question the child as to how he or she came to be in possession of that property." He adds that parents all too often leave it to teachers, probation officers and police officers to guide children in the proper path.

There were 196 accidents causing death or injury; 83 of them were recorded as due to the fault of the driver or rider of a vehicle, 51 to the faults of pedestrians, 18 to passengers on or conductors of vehicles and the remaining 44 to "other causes" including mechanical defect or failure and road conditions.

Although there was a decrease from 60 to 47 in the number of charges of drunkenness there was an increase from nine to 20 in the number of charges of driving, or being in charge of, vehicles whilst under the influence of drink. The chief constable comments "An increase of over 100 *per cent.* in this type of offence is a serious matter and gives food for thought to all concerned. The law provides penalties, *i.e.*, £100 fine, a term of imprisonment or both fine and imprisonment, together with a period of disqualification from holding a driving licence, upon those found guilty in summary courts . . . My personal opinion is that if maximum penalties were imposed this type of offence would soon be less frequent." The penalty of £100 applies only, of course, to the "major offence" if it is a first conviction.

CITY OF WAKEFIELD: CHIEF CONSTABLE'S REPORT FOR 1958

There were 710 reported crimes, 60 more than in 1957; 200 of them were taken into consideration at Wakefield and elsewhere without being made the subject of separate charges, and 161 persons were prosecuted in respect of the others which were detected, the total of detected crimes being 428 (60.28 *per cent.*).

The number of non-indictable offences dealt with during the year was 983, traffic offences largely predominating. Elsewhere in the report it appears that there were 986 offences relating to motor vehicles; involving 741 persons, 296 of whom received cautions for 333 offences. Altogether for non-indictable offences 759 persons were proceeded against so that it would appear that 314 of them committed "non-traffic" offences, but we are not sure that we have correctly understood these two sets of figures.

There were 269 fatal and injury accidents, and 607 damage only ones. Of these as many as 347 were due to collisions between motor vehicles, and there were 107 cases of dogs being run over by motor vehicles, an indication of the way in which dog owners (one feels not dog lovers) allow their animals to roam the streets with the constant risk of their being killed or injured.

This is a small force with an authorized establishment of 98 and an actual strength of 90. It would seem, however, that the numbers are adequate for the duties they have to perform for the special constables, numbering 54, were not required to perform any duties during 1958. One helpful factor for the regular force was that only 894 days were lost through sickness or injury on duty, compared with 1,141 in 1957. Of these 894 days one man was responsible for 190 days.

HERTFORDSHIRE POLICE DISTRICT: CHIEF CONSTABLE'S REPORT FOR 1958

Population in the district is increasing but crime and traffic problems are increasing more rapidly. In 1958, the population increased by four *per cent.*, crime by 21 *per cent.*, road accidents by 23 *per cent.* and the number of persons brought before courts by 32 *per cent.* Add to these facts the further fact that the force is 20 *per cent.* below its required establishment and one has no difficulty in realizing the magnitude of the problem which the police have to face.

The crime figures have risen alarmingly since 1954 as the following figures of reported crimes for the years 1954 to 1958 show: 4,595, 4,912, 5,420, 6,219 and 7,516. In 1958 more than half the detected crimes were committed by persons under 21, 56 *per cent.* as against 44 *per cent.* by persons aged 21 and over. There has been an increase in the number of fights and brawls taking place in the streets, with disturbances provoked by gangs of youths roaming the streets or making nuisances of themselves outside dance halls and cafés. Often they are found to be carrying sheath knives, flick knives, chains and studded belts. During 1958 there were 238 such disturbances compared with 191 in 1957. One is forced to wonder whether modern penal methods are adequate to suppress intolerable conduct of this kind, but the chief constable reports that police action is receiving the fullest support from the courts.

The traffic problem is made clear by the following figures: estimated increase in volume of traffic seven *per cent.*, increase in accidents 23 *per cent.*, increase in traffic offence prosecutions 35 *per cent.* Checks on roadworthiness of road vehicles showed that of 614 vehicles examined as many as 249 were found to be defective. There is no excuse for this negligence and courts should make it clear to offenders brought before them that increased road dangers due to defective vehicles cannot be tolerated. The police were concerned with 3,854 abnormal load vehicles, 20 *per cent.* more than in 1957.

A review of the police manpower position showed that to give them adequate numbers the authorized male strength should be increased from 775 to 998. An increase of 33 was authorized in May, 1958, and on December 31, 1958 the actual total strength was 823 with an authorized establishment of 849. The net increase during the year was 42.

COUNTY BOROUGH OF ROCHDALE: CHIEF CONSTABLE'S REPORT FOR 1958

A net increase of seven brought the actual strength on December 31, 1958, to 164; the authorized establishment is 182. The cadet section was up to strength (eight), with a waiting list. The special constables lost three during the year leaving them with 55 men and two women. An effort made during the Civil Defence Recruiting Campaign in September-October to obtain recruits for the "specials" was a complete failure.

Patrol constables are very concerned with the maintenance of public order and to check disorderly behaviour at its source police are posted to likely trouble spots, and there are special patrols by dog-handlers. These latter "materially assisted in indicating to the unruly element that fighting and brawling in the streets would not be tolerated." This tribute to the four-legged members of the force is not unique, police experience elsewhere has been similar.

The only offence of using premises for the purpose of betting which is referred to in the report cannot, in the opinion of the court, have been a serious one for we note that for using the premises on each of five separate occasions the occupier was fined a total of £5. An aider and abettor was fined £5 in each case. Perhaps Rochdale does not take a serious view of such offences.

The general increase in crime is reflected in the Rochdale figures: reported crimes for 1958 1,353, for 1957 1,977, an increase of 376. The percentage of detections in 1958 was 54.2, and for these 721 offences 507 persons were prosecuted of whom 224 were aged 21 and over, 89 were between 17 and 20 inclusive, and 194 were juvenile. Once again the under 21's are in the majority, a most disturbing feature of many other reports which emphasizes the need for finding an effective method of reforming these young offenders if crime figures for future years are not to become even more alarming.

Traffic problems add a considerable quota to the police burden. The chief constable points out that "a factor in road accident causation often overlooked by persons who take exception to being reported for obstruction is that the mere presence of a stationary vehicle is frequently the primary cause of accidents involving children and elderly people passing behind a parked vehicle into the path of oncoming traffic."

DERBY CHILDREN'S COMMITTEE

The great variety of jobs in which a children's officer and through her the children's committee are involved, and their manifold responsibilities are well illustrated by a list of happenings in a single week, given in the 1958 report of Mrs. J. Young, children's officer for the county borough of Derby.

Once again the number of children in care was substantially lower at the end of the year than at the beginning, despite conditions which led nationally to a slight rise in numbers. The figures show, a relatively small proportion of the children considered were received into care. A few parents with very low standards occasionally suggest that the children's committee want to take their children from them. On the other hand, it is sometimes suggested that the children's committee is concerned at reducing or limiting numbers to prevent increasing their financial obligations. Neither suspicion comes anywhere near the truth.

The separation of very young children from their mothers is a special problem. The residential nursery is of special value for the many short-term cases, when parents or relatives need to visit frequently. Some children were placed direct in foster homes or in families who intended to adopt them.

Many mothers are so anxious at the idea of separation from their babies that they will postpone urgent operations and endanger their own health rather than enter hospital unless satisfactory arrangements are made. At the other extreme, 10 mothers deserted their children, six of whom were under three years of age.

Although there have in the past been more admissions than discharges in a year, the trend now appears to be that children are staying in the homes for shorter periods, except for a few who have a special need to continue in an unchanged environment.

We have no doubt that the policy in Derby, as elsewhere, is to improve unsatisfactory homes by helping ineffective parents and to restore the children to their parents when the home is fit to receive them, rather than to keep children in care, relieving parents of their responsibilities and allowing a home to break up.

Statistics show that there is perhaps a renewed trend of sending offenders direct to approved schools rather than committing them to the care of the local authority. It will perhaps be appreciated, says Mrs. Young, that children's homes are not altogether equipped for dealing with those young offenders needing constant supervision, and the stricter routine and discipline of an approved school is more appropriate for such children.

On the question of the relations between parents and child, when a child is in the care of the local authority, Mrs. Young notes a change of attitude during the last 10 years. Today it is generally accepted that work with the child involves a relationship with the parents which should be positive and helpful. Further than that, every effort is made to help families in which the separation of a child or of the whole family appears to be threatened. In Derby, concludes this report, these policies were adopted by the children's committee at a very early stage and are likely to continue as the foundation of their future work.

CAMBRIDGESHIRE ESTIMATES, 1959–60

The estimates prepared by county treasurer R. P. Thorne, M.A., A.S.A.A., show a 10 *per cent.* rise in the gross expenditure of the spending committees but after crediting the new grants it has been possible to reduce the total rate by 1*s.* 6*d.* to 16*s.* This has chiefly been possible because the Minister of Housing and Local Government, owing to the special position in the county, has made a scheme whereby rate deficiency grant on special county expenditure will be paid direct to the county council instead of to the rating authorities.

A penny rate for general county purposes is estimated to produce £9,878, an increase of £1,000 over the previous year.

The county council has progressively reduced its balances in two years from £541,000 to £365,000. The latter figure is equal to 7·4 *per cent.* of gross expenditure.

Gross expenditure is estimated to reach £5 million, of which three-fifths will be spent on education. A sum of £50,000 is included for contingencies.

Government grants will meet 59 *per cent.* of net expenditure.

Mr. Thorne wisely shows the future effect on the rates of capital expenditure to which the council is already committed: he estimates that this will cause a rate rise of 1*s.* 11*d.*, and, incidentally, as part of the process additional loans of £980,000 will need to be raised after March 31, 1960.

CITY AND COUNTY OF THE CITY OF EXETER: CHIEF CONSTABLE'S REPORT FOR 1958

The former chief constable having been appointed chief constable of Brighton, this is his successor's first report. The force suffered a small loss of three in actual strength during the year, the final figures being 128 authorized establishment and 122 actual strength. There were 85 male applicants compared with 106 in 1957. The manpower position must have been helped to a small extent by a considerable decline in the number of days lost through sickness which, at 933, were 517 fewer than in 1957.

Work on the new police headquarters and the magistrates' courts continues apace and the force hopes to move into its new home in August or September next.

A considerable increase in recorded crimes gave a total of 960 for 1958 against 833 for 1957. Of the total 638 were detected, adults being responsible for 453 of these and juveniles for 185. The number of adult and juvenile offenders were 327 and 181 respectively. Offences against property with violence showed, in the words of the report, "an alarming increase" from 69 in 1957 to 148 in 1958. The chief constable is able to report that the detection rate for crimes, 67·5 *per cent.*, is an increase of 4·8 *per cent.* over that for 1957 and is a highly satisfactory rate.

Summary offences showed a considerable increase; 1,313 motorists were proceeded against for 1,524 offences, the 1957 figures being 916 and 1,058, respectively. The chief constable writes that "the heavy increase in offences of dangerous and careless driving must be viewed with considerable concern as also must be the disturbing rise in cases of driving or being in charge of motor vehicles whilst under the influence of drink or drugs." The latter went up from seven to 13 and the former from 87 to 131.

The traffic problem in Exeter becomes daily more acute and "the completion of the new road scheme cannot come too soon." The chief constable writes, "free passage along the streets of the city is essential to its commercial life and a little more thought for the convenience of the other fellow on the part of many motorists would be very welcome."

WORDS AND MUSIC

There can be little doubt, in the minds of those with pretensions to taste, that patriotic fervour, whatever virtues it may inculcate, is seldom productive of musical or literary genius of a high order. There may be several reasons for this. For one thing, the greatest art has about it something all-embracing and universal—something which (as Ben Jonson said of Shakespeare) is not of an age, but for all time; while national pride is of a narrow, exclusive and bigoted nature. Again, the recognized models and standards of aesthetics, by and large, stand firm, unaffected by the prevailing conventions of social aims and political beliefs: the qualities that mark the *Iliad* as a great epic have nothing to do with the contemporary patchwork of petty kingships in ancient Greece at the time when it was composed; the conception of the *Divina Commedia* as a noble religious poem is not dependant on an acquaintance with, or approval of, the organization of the Roman Catholic Church in the late thirteenth century; and the recognition of *King Lear* as a masterpiece of human tragedy is not limited to those who admire, or take a particular interest in, the achievements of the First Elizabeth and the England of her day.

The writer of patriotic verse, or the composer of a national anthem, on the other hand, is moved by impulses which, though quite spontaneous at the time, may lose all power to inspire men's minds a few years later. A military victory or disaster may seem temporarily to have a great importance, which will shortly fade into insignificance; the expulsion of the former royal family, and the establishment of a new dynasty, may have extensive repercussions at the time, but within a short period may prove to have been mistaken or perverse. " They now ring the bells, but they will soon wring their hands," is a remark attributed to Robert Walpole on the evidence of popular enthusiasm at the declaration of war against Spain in 1739; a century earlier, many thousands of those who hailed the execution of Charles I as an end to tyranny of kings soon had reason to regret their enthusiasm under the stern asceticism and joyless conditions of the Protectorate, and subsequently to welcome with pleasurable relief the event of the Restoration. For sentiments so changeable, for an outlook so variable, artistic celebration must needs be of a transient and biased quality.

Two of the worst lines in English verse are attributed to Alfred Austin, who was Poet Laureate from 1896 to his death in 1913. The occasion was the illness of the Prince of Wales (afterwards Edward VII) at the close of the century:

> " Across the wire the electric message came:
> He is no better; he is much the same."

Doubtless the health of the heir to the Throne was a matter of great moment to many worthy people; but from the Poet Laureate it wrung two lines of doggerel which are still faintly comic.

The national anthems of many peoples suffer from the same defects, and for similar reasons. Few of them are distinguished by poetic merit or original thought—let alone ordinary Christian charity. *God Save the King* (*sic*), first printed in 1745 (the year of the last Jacobite rising), is pervaded by a Hanoverian bigotry in some of its lines, particularly—

> " Compound their politics,
> Frustrate their knavish tricks,"

about which the less said the better. Henry Carey (the author of *Sally in our Alley*) is said to have adapted the words from an earlier version of James Oswald, a Scotsman who became chamber-composer to George III. The music goes back much earlier, and is said to have been composed by one John Bull in 1619; and the same tune served at different times for Germany, Switzerland, Denmark, Norway, and the United States (*My Country, 'tis of Thee*). This in itself shows a surprising lack of originality.

The national anthem of France, *La Marseillaise*, has a very different background. Both words and music were improvized, in one night, by Rouget de Lisle, a captain in the Engineers Unit of the revolutionary army in 1792: and it derived its name from the great enthusiasm with which it was adopted as a marching-song of the troops leaving Marseilles for Paris. The odd thing is that its popularity remained practically unshaken in the time of Napoleon the Great, during the short-lived glory of Napoleon III, and throughout the Second, Third, Fourth and Fifth Republics—and this despite the ferocious sentiments about fertilizing the furrows of France with degenerate aristocratic blood. The patriotic Frenchman of 1792, 1812, 1872 or 1942 was not troubled by such anomalies.

Two recent news items have drawn attention to the characteristics upon which we have remarked. Questions have been raised in the House of Commons about the distribution to English schools of a so-called " NATO Hymn," which does not seem to be more happily inspired than other compositions of the kind, if one can judge from the two lines quoted in the press:

> " Let NATO grow in might
> And put its foes to flight "—

a couplet which has about as much poetic merit and moral sentiment as that quoted above from Alfred Austin.

The second episode illustrates the transient popularity of these ideas. At the recent international football match, between England and Italy, the band of the Green Jackets Brigade, seeking to do honour to the visiting team, played what they fondly believed to be the Italian National Anthem; but as the music was taken from a War Office publication nearly 50 years old, it is scarcely surprising that embarrassment was caused. What the band played was *Marcia Reale* (the " Royal March ") which, popular as it was while the spirit of the *Risorgimento* kept the First Victor Emmanuel's memory green, has gone out of fashion since Italy became a Republic on June 10, 1946, and adopted as the new national anthem the *Inno di Mameli* (" Mameli's Hymn "). Despite immediate investigation by the British War Office, an apology to the Italian Embassy in London, and a lengthy explanation of how the mistake occurred, two deputies have tabled urgent parliamentary questions in Rome, calling for an official protest to the British Government at the playing of the " Fascist Royal March " instead of the Republican Anthem. Three members of the Senate have now followed suit. It is to be hoped that the War Office keeps the Army's weapons up to date more successfully than its musical repertoire.

A.L.P.

NOW TURN TO PAGE 1

A police constable may arrest without warrant the driver of any motor vehicle who within his view commits an offence under ss. 11 and 12 of the Road Traffic Act, 1930 (*i.e.*, an offence of reckless, dangerous or careless driving) unless the driver either gives his name and address or produces his licence for examination. (Road Traffic Act, 1930, s. 20 (2).)

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons Act, 1933—*Care or protection proceedings—Evidence of girl in respect of whom offence committed.*

A is charged with a series of offences under ss. 6 and 14 of the Sexual Offences Act, 1956. If A is convicted, B, the girl concerned, can (and probably will) be brought before a juvenile court under s. 62 of the Children and Young Persons Act, 1933, and may well suffer the heavy "punishment" of being sent to an approved school.

The prosecution wish to call B to give evidence against A. Any material evidence B may give against A will tend to prove her to be a person in need of care or protection, with consequent threat to her liberty and temptation to perjury.

Should B be informed that she need not give evidence and fully warned of the possible consequences to herself following the conviction of A for these offences?

QUOCKO.

Answer.

The rule as to privilege against self-incrimination relates only to questions tending to expose the deponent to any criminal charge, penalty or forfeiture.

Although the court may order a girl found to be in need of care or protection to be sent to an approved school, it is not in respect of any criminal charge against her, and it is not by way of punishment.

In our opinion it is unnecessary to inform the girl of the possible consequences, and incorrect to inform her that she need not give evidence.

2.—Children and Young Persons Act, 1933—*Offence in sch. 1 committed more than six months ago—Trial.*

Evidence has recently been received by police of an alleged offence by a young person aged 14 years, in that he indecently assaulted a girl aged seven. The alleged offence took place more than six months ago and, therefore, under the provisions of s. 14 (3) of the Children and Young Persons Act, 1933, it would appear that the young person concerned may not be *summarily* convicted of the offence.

I shall be glad to have your opinion, however, on the effect upon s. 14 (3) of the Children and Young Persons Act, 1933, of s. 20 of the Magistrates' Courts Act, 1952. The offence of indecent assault under s. 14 of the Sexual Offences Act, 1956, is indictable and it would appear that under the procedure prescribed by s. 20 of the Magistrates' Courts Act, 1952, if the accused consents, he may be tried summarily for this offence.

I shall be glad to know whether you agree with my opinion. Will you please also say whether, having regard to the provisions of s. 21 of the Magistrates' Courts Act, 1952, if the person by whom the alleged offence has been committed was *under* 14, he *must* be dealt with summarily, notwithstanding the provisions of s. 14 (3) of the Children and Young Persons Act, 1933.

VIGILANS.

Answer.

Section 14 (3), *ibid.*, operates to prevent any person from being tried summarily unless the offence was committed within six months before the information was laid, despite the provisions of ss. 20 and 21 of the Magistrates' Courts Act, 1952. It would be necessary to commit a young person for trial, but it is open to question whether this could be done in the case of a child.

3.—Compulsory Purchase—*Vesting declaration—Interest on compensation money.*

My council have executed a vesting declaration under sch. 6 to the Town and Country Planning Act, 1944, as amended by the Town and Country Planning Act, 1947, and set out in sch. 11 thereto. The owners of a small number of the properties involved, although they have reached agreement with the district valuer either personally or through their agents on the amount of compensation and have proved their title to the properties, refuse to accept compensation. Apart from the possible payment of compensation into the Bank of England under the Lands Clauses Consolidation Act, 1845, is there any way of preventing the accumulation of interest on the compensation? The question of interest only is relevant, since the properties have become vested in the council without the necessity of deed poll. PONS.

Answer.

We do not know of any such power.

4.—Evidence—*Notes of—Application for copies.*

In a recent case, an action for careless driving where the defendant was convicted, I have since been asked by an insurance company for a copy of the notes of evidence as a claim is being made, but the insurance company says it is extremely unlikely that legal proceedings will ever result from this claim.

My impression is that I have read that clerks are only justified (or possibly obliged) in supplying notes of evidence if required by lawyers, or the actual persons involved, where an action is likely to follow. I shall, however, be very much obliged by your advice on this point.

FONFOR.

Answer.

We think our correspondent must be referring to the P.P.s at 106 J.P.N. 142 and 109 J.P.N. 419, of which the former is the more important.

5.—Gaming—*Small Lotteries and Gaming Act, 1956, ss. 1 and 4—Lottery or small gaming party?*

I refer to your answer to P.P. 1 at 123 J.P.N. 147.

Your answer implies that a society registered under s. 2 of the 1956 Act could promote a lottery such as housey-housey, provided the game conformed to the conditions of s. 1 (2) of the Act.

I am of the opinion that, if a lottery takes the form of a game, it must comply with the conditions of s. 4, governing small gaming parties, otherwise small gaming parties could become very large ones and this would defeat the object of s. 4.

I should be glad to know if you agree with this view.

HATFEN.

Answer.

We do not entirely agree with our correspondent. The object of s. 4 of the Act is to make lawful certain gaming parties with a comparatively small financial limit. Some games can also be classed as lotteries and if their promoters chose to run them as lotteries with a higher financial limit, they must then bring them within the much more stringent terms of s. 1 of the Act. There cannot be many games susceptible of conforming to the conditions in s. 1 (2) of the Act, and we cannot see that any great harm is done if they are run as lotteries.

6.—Gas—*Street lighting—Removal of pipes belonging to gas board.*

The council have in the past relied upon gas for street lighting but they are now converting their street lighting to electricity. The local gas manager states that if the gas lighting is discontinued the council will have to pay the cost of disconnecting the supply pipes (if necessary), and of plugging or sealing the gas mains. The Gas Act, 1948, states that the board must supply gas for street lighting, but does not mention at whose expense. The point of view of the gas board is appreciated, since the disconnexion of the service is permanent but, on the other hand, it does seem to impose an undue obligation upon my council to remove service pipes which belong to the gas board, and to pay for the cost of sealing the mains which are also the property of the gas board. Is it your opinion that this cost should be borne by the council or the board? It has been suggested that paras. 8 and 11 of sch. 3 to the Gas Act, 1948, place the obligation on the council, but this does not seem to be correct.

PORCAL.

Answer.

When the supply is terminated, the pipes remain the property of the gas board and they have power to remove them under sch. 3, para. 1 to the Gas Act, 1948; *cp.* also para. 35 of that schedule. In our opinion, therefore, the power to remove the pipes and the obligation to seal off the mains is on the gas board, and they must do so at their own expense. We agree that paras. 8 and 11 of sch. 3 to the Gas Act, 1948, do not impose on the local authority any such obligation.

7.—Housing—*Association as tenant.*

My council have recently received a request from a nursing association asking the council to let houses directly to the association for their use in housing nurses. It seems to me, however, that the council cannot comply with this request because, if the houses were let directly to the association, the council would not be complying with s. 113 (2) of the Housing Act, 1957, in so far as it could not be said that they were giving reasonable preference in the selection of tenants to over-crowded or unsatisfactorily housed families. It also seems that compliance with the association's request would be tantamount to making the house a "tied" house, with the consequent result that the occupant of the house would be in danger of being evicted on changing her job, and such a position would not strictly comply with the intention of the Housing Act to make and keep houses available for the needs of the local population. PORINGA.

Answer.

The power to let houses on lease under s. 104 of the Housing Act, 1957, with the consent of the Minister, may enable the council to do what they wish.

8.—Husband and Wife—*Maintenance Orders Act,* 1958—*Deduction of income tax—"Small maintenance orders."*

By virtue of the provisions of s. 205 of the Income Tax Act, 1952, as amended by the Finance Act, 1957, maintenance orders providing for a rate of payment for a wife, not exceeding £5 per week and for a child not exceeding £1 10*s.* per week, are "small maintenance orders" and payments made thereunder are not subject to deduction of tax.

Do you consider that, if a rate of payment for either the wife or the children exceeds these limits, the order ceases to be a "small maintenance order" and the total amount is subject to tax deduction, or should tax be deducted only from that payment, which is in excess of the limit.

FESTAR.

Answer.

In our opinion, if an order exceeds the limits of £5 per week for the wife and £1 10*s.* per week for the child, the total amount is subject to tax deduction, and not merely the excess above those limits.

9.—Husband and Wife—*Maintenance Orders Act,* 1958—*Deduction of income tax—"Small maintainance orders."*

I am obliged by your answer to my query above.

Unfortunately I worded my question rather ambiguously. The type of order I had in mind was one which was within the limits for, say the wife (*i.e.*, "a small maintenance payment") but outside the limits for a child (or children). Does a maintenance payment, which, if embodied in a separate order would not be subject to tax deduction, become subject to tax deduction when it is included in an order which makes provision for a child at a rate which exceeds a "small maintenance payment"? In other words, if part of the order provides for a rate of payment in excess of the limit, does the total amount payable under the order become subject to tax deduction?

FESTAR AGAIN.

Answer.

We are still of the opinion that if an order includes maintenance for the wife and maintenance for a child or children, the whole order must read as one, and if the total exceeds the limits of a small maintenance order, whether or not one part of it is within the limit, the order is subject to tax deduction.

10.—Husband and Wife—*Maintenance Orders Act,* 1958—*Notice to defendant prior to issuing warrant of commitment—Sum to be inserted.*

Under the Maintenance Orders Act, 1958, s. 18, a notice has to be sent to a defendant prior to issuing a warrant of commitment which has been suspended and the notice is in form 15 of the Magistrates' Courts (Maintenance Orders) Act, 1958 and rules 1959. That form indicates in para. 2 that "the warrant falls to be issued unless the defendant pays the sum of £ " but there is no indication whatever in the Act or rules as to whether this sum is the total of the instalments in which the defendant is in default or whether it is the amount for which a sentence of imprisonment was imposed less the payments which the defendant has made since that time.

HASAN.

Answer.

We sympathize with our correspondent's difficuty about this form. On the whole, we think the amount to be inserted is the balance of arrears still due, *i.e.*, the amount on the original warrant less any payments made during its postponement. Even if this be correct, the wording will still be awkward, because the term of imprisonment to be inserted just before the sum in question must mean the term originally imposed.

11.—Licensing—*Compensation authority—Principal meeting—Right of audience.*

At the annual general licensing meeting objection was made by the superintendent of police to the renewal of an old on-licence and on hearing the evidence by the objectors the question of renewal was referred to the compensation authority and their report forwarded as required. At the county confirming compensation authority's principal meeting, the police as objectors were present. Counsel representing interested parties, namely the brewery, were present but no members of the renewal authority were present. Counsel for the brewery submitted that there was no evidence before the authority on which they could act; this was upheld by the chairman who also stated that counsel should have been instructed by the renewal authority. The objectors, namely the police, were not granted right of audience and the committee decided not to refuse the renewal.

It would be appreciated if you could inform me whether:

1. The renewal authority should be represented by counsel.
2. Should not the authority have proceeded to hear the evidence of the objectors, although not represented by counsel?
3. Are quarter sessions entitled to lay down a precedent that all licences referred must be pursued before the committee by the renewal authority, represented by counsel?

OMENO.

Answer.

In our opinion, the position is governed by the proviso to s. 15 (2) of the Licensing Act, 1953. The compensation authority is not bound to hear anyone except persons interested in the licensed premises.

1. If the renewal authority, being the licensing justices, desire to be heard, they should be represented by counsel and he will be heard unless it appears to the compensation authority unnecessary.
2. Not if they thought it unnecessary.
3. This is put too strongly. In our opinion, the compensation authority may not "lay down a precedent" designed to be binding upon themselves. The renewal authority is fully entitled not to pursue any matter that they have referred to the compensation authority, but, having referred a question of renewal, they may leave the matter confidently to the compensation authority's discretion.

There is no obstacle in the way of the licensing justices if they desire again next year to refer the question of renewal to the compensation authority, and, if they then desire to pursue the matter to its conclusion they may instruct counsel to appear on their behalf.

12.—Licensing—*Occasional licence—Function to be held on premises of a registered club.*

At one of my courts this morning application was made for an occasional licence for the sale of intoxicating liquor at a club situated in the division. The bench after considering the position agreed to grant the occasional licence but intimating to the applicant that the bar in respect of the occasional licence should be in a room different to that of the club room where the bar belonging to the club premises was situated.

I am wondering whether the bench were correct in granting the occasional licence on premises which are registered with me as a club, and I would be glad of your advice as to whether there is any objection to an occasional licence being granted to be held on premises which are registered as club premises. Similar applications may be made in the future and I shall be much obliged if I could have your opinion on the matter.

OLDINA.

Answer.

Nothing in licensing law prohibits the grant of an occasional licence to the holder of a justices' on-licence who desires to sell intoxicating liquor on premises, other than his licensed premises, which are the premises of a registered club, and it is in a magistrates' court's discretion to consent to such a grant: *cf. Brown* v. *Drew* (1953) 117 J.P. 435. It is quite proper, as was done in the case mentioned by our correspondent, for the magistrates' court to specify in the form of consent the particular room in which the occasional licence will operate.

13.—Magistrates—*Jurisdiction and powers—Property in possession of prisoner—Applications to the court under the Magistrates' Courts Act,* 1852, *s.* 39 *and the Police Property Act,* 1897, *s.* 1.

A was charged with an offence under s. 4 of the Vagrancy Act, 1824 (loitering with intent to commit a felony) committed in Tattersalls' Ring at a race course. At the time of his arrest he was found to be in possession of £106 in Bank of England notes and one Scottish £1 note.

During the same afternoon reports were received in respect of varying amounts of money in Bank of England notes and one Scottish £5 note being lost in the same ring to the total of £100. In the absence of any evidence of attempted larceny, no further charge was preferred and A pleaded guilty to the above offence, for which he was sentenced to three months' imprisonment. At that court details of the money found in possession of the prisoner were reported to the court, together with the fact that application would be made in due course. This appears to be in accordance with s. 39 of the Magistrates' Courts Act, 1952.

An application was made at a later date under the Police (Property) Act, 1897, when A was present and the facts as stated above were given in evidence. In answer to a query from the bench it was stated that no actual charge was made in respect of the £107 and the bench decided that they had no jurisdiction to make an order.

Following this, the provisions of s. 39 of the Magistrates' Courts Act were quoted but the bench maintained that they had no jurisdiction to make any order.

From this, the following points appear to emerge:

1. Referring to s. 39 of the Magistrates' Courts Act, 1952, must an application for an order be made at the court where the offender is dealt with or can an application be made on a subsequent date, provided that details of the property were reported to the magistrates' court at their original hearing with the intimation that a further application would be made at a later date, for obvious reasons ?

2. If the magistrates decide to deal with this under the Magistrates' Courts Act, 1952, and they direct that the money be not returned to the offender in the interests of justice, must an order be subsequently applied for under the Police (Property) Act, 1897 ?

3. Having regard to the provision of the Police (Property) Act, 1897, which reads: "where any property has come into the possession of the police in connexion with any criminal charge, a court of summary jurisdiction may, on application, either by a police officer, etc., make an order for the delivery of the property to the person appearing to the magistrates or court to be the owner, or if the owner cannot be ascertained, make such order with respect to the property as to the magistrates or court may seem meet." Can an order be made for disposal of property coming into the possession of the police, having regard to the fact that the criminal charge in this respect was an offence under s. 4 of the Vagrancy Act, 1824 (loitering with intent to commit a felony) ?

I.N.C.P.

Answer.

1. It was held in *R.* v. *D'Eyncourt* (1888) 52 J.P. 628 (*see* the end of the judgment of Field, J.) that s. 44 of the Summary Jurisdiction Act, 1879 (which is re-enacted, with modifications, by s. 39 of the Act of 1952) applied only before trial and conviction. We think that the same applies to s. 39.

2. There is no obligation on the police to make an application under the Act of 1897. They can leave it to any person making a claim to the property to proceed under that Act.

3. The charge under the Vagrancy Act, 1824, s. 4, is a criminal charge and, in our view, an application in respect of this money, which certainly came into the possession of the police in connexion with that charge, can properly be made under the Act of 1897.

14.—Magistrates—*Jurisdiction and powers—Property in possession of prisoner—Police (Property) Act,* 1897, *s.* 1—"*In connexion with any criminal charge.*"

I am interested in your reply to the above P.P. relating to the Police Property Act, 1897. The question asked, *inter alia,* if money found in the possession of the person arrested by the police on a charge of loitering with intent to steal can be said to be property which has come into the possession of the police "in connexion with a criminal charge." The person in question was subsequently convicted of the offence and sent to prison for three months. When arrested the defendant had in his possession £107 in notes. The police had received complaints from various members of the public frequenting the racecourse that they had lost money totalling in all about £100. The police were unable to show that any of the notes found in the defendant's possession were not his property. None of the notes could be identified. The magistrates decided that they had no jurisdiction.

You will no doubt have noted the defendant was convicted only of loitering with intent to steal. He was not charged with stealing or attempting to steal.

Having regard to your P.P. at 115 J.P.N. 397 and having regard to *R.* v. *D'Eyncourt* (1888) 52 J.P. 628, are you still of the opinion that the £107 could be said to be property which has come into possession of the police "in connexion with a criminal charge ?" If so, are you of the opinion that any property or money found on a defendant who is charged with a criminal offence can be dealt with in accordance with the Police (Property) Act, 1897 ?

I.N.C.P. AGAIN.

Answer.

We adhere to what we said in our previous answer on these facts. On reconsidering the matter, we are inclined to think that our answer to the P.P. at 115 J.P.N. 397 was not correct. The words in s. 1 of the Act are wide and, in our opinion, wide enough to include the money in this case. It cannot be denied that the notes came into possession of the police "in connexion with a criminal charge." If our correspondent's contention is correct, surely the phrase "which is the subject of a criminal charge" would have been used. The same facts arose in a P.P. at 73 J.P.N. 391 and we had no doubt there that the property came within the section.

15.—Music etc., licence—*Licence granted at general annual licensing meeting—Later application for new licence with different conditions.*

An application for a renewal of a music and singing licence to be attached to licensed premises was made at brewster sessions and granted subject to certain conditions. These conditions prohibited the use of amplifiers on the premises. The brewers not being satisfied have now made an application at transfer sessions for a fresh licence free from the conditions. It was submitted at the hearing that the justices had no power to hear the application and that it was a case of *res judicata.* The brewers intend to call "fresh evidence" which they admit was available on the application for the renewal. The magistrates decided that it was a fresh application, and have decided to hear it. Are the justices right ?

NULOR.

Answer.

We do not think that the licensing justices will be wrong if, in their discretion, they decide to hear an application for a new music licence, designed to supersede that already granted, regularly made to them at transfer sessions. Although the application will be in form for a new licence, in reality it will be for an alteration in the conditions which the justices have attached.

16.—Music etc., licence—*Licence granted at general annual licensing meeting—Later application for new licence with different conditions.*

We thank you for your answer to our query above.

Your answer appears to be inconsistent with the opinion you give at 111 J.P.N. 455 and 75 J.P.N. 22. We should be glad of your further comments.

As you say the application will be in the form of a new licence, but in reality it will be for an alteration in the conditions which the justices have attached, and nothing more than an appeal to the justices from their previous decision.

NULOR AGAIN.

Answer.

We adhere to our previous answer, which we think is not inconsistent with our answers at 75 J.P.N. 22 and 111 J.P.N. 455.

Our previous answers related to repeated applications for consent to the grant of an occasional licence which, after refusal, was sought to be made again to a differently constituted court.

In our correspondent's case, a music licence has been granted and the decision to grant it is not challenged. It is sought to make a second and regular application to the same tribunal for another licence in exactly the same form, save only that the conditions originally attached shall be less onerous. The licensing justices in their discretion may hear the application and if they are persuaded that the conditions which they had previously imposed are more onerous than good administration requires, they may grant a new music licence with modified conditions.